

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JENNIFER BRIDGES, ET AL.

Plaintiffs

V.

THE METHODIST HOSPITAL
D/B/A THE METHODIST
HOSPITAL SYSTEM, AND
HOUSTON METHODIST THE
WOODLANDS HOSPITAL

Defendants.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. _____

DEFENDANTS' NOTICE OF REMOVAL

Subject to and without waiving any defenses or objections to the Original Petition filed in state court, Defendants The Methodist Hospital d/b/a Houston Methodist Hospital and Houston Methodist The Woodlands Hospital (collectively, "Defendants") hereby remove this action to federal court under 28 U.S.C. § 1441(a) and (c) and 28 U.S.C. § 1331. In support of their Notice of Removal, Defendants respectfully represent the following:

1. This action was original filed on May 28, 2021 in the 457th Judicial District Court of Montgomery County, Texas under Cause No. 21-06-07552.¹
2. Defendants have timely filed this notice of removal within thirty (30) days after receipt of Plaintiff's Original Petition.²

¹ See Plaintiffs' Original Petition, attached as Exhibit "A."

² See Ex. A; 28 U.S.C. 1446(b)(1).

3. The district courts of the United States have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.³

4. In this case, some of the one hundred sixteen (116) Plaintiffs allege that they “have been terminated from their jobs” and “others are in imminent and immediate danger of being terminated from their jobs for refusing to take an experimental vaccine that is being provided under” the United States Food and Drug Administration’s (“FDA”) Emergency Use Authorizations (“EUAs”) in response to the coronavirus disease 2019 (“COVID-19”) pandemic.⁴

5. Plaintiffs allege that the statute enabling the FDA to authorize medical products for emergency use requires that the person to whom the vaccine is administered “be advised of his and her right to refuse administration of the product. *See* 21 U.S.C. § 360bbb-3(e)(1)(A).”⁵ Furthermore, Plaintiffs assert § 360bbb-3 “reflects a fundamental, public policy goal” of balancing an individual’s option to receive a product authorized under an EUA while protecting their right to refuse such a product.⁶ This right, Plaintiffs contend, “is fundamental and has its roots in the Nuremberg Code of 1974 and has been ratified by the 1964 Declaration of Helsinki, and further codified in the United States Code of Federal Regulations.”⁷

³ *See* 28 U.S.C. § 1331.

⁴ *See* Ex. A, at pp. 2-4.

⁵ *See* Ex. A, at p. 8.

⁶ *See* Ex. A, at p. 8.

⁷ Ex. A, at p. 8; *see* 45 C.F.R. §§ 46.101, *et seq.*

6. In their Original Petition, Plaintiffs allege Defendants wrongfully discharged them for refusing to perform an illegal act.⁸ Plaintiffs also allege violations of the at-will employment doctrine public policy exception because Defendants’ “Mandatory COVID-19 Vaccination Directive . . . is in direct violation of Federal law, specifically 21 U.S.C. § 360bbb-3 – Authorization for medical products for use in emergencies.”⁹

7. Plaintiffs also seek declaratory relief that (a) 21 U.S.C. § 360bbb-3(e)(1)(A) “does not permit Defendants to coerce an employee to accept an FDA unapproved vaccine on penalty of termination or other sanctions;” and (b) Defendants’ “Mandatory COVID-19 Vaccination Directive” is invalid and void under “[t]he doctrine of federal preemption.”¹⁰

8. Moreover, Plaintiffs allege they have “been threatened for choosing not to take an FDA unapproved experimental vaccine . . . which federal law states cannot be mandated,” and seek to enjoin Defendants from “terminating Plaintiffs for the sole reason of their refusal to be injected with the experimental COVID-19 vaccine.”¹¹

9. Here, each of Plaintiffs’ claims arise under federal law. Specifically, each of Plaintiffs’ claims are premised on Houston Methodist’s alleged violations of federal law, including but not limited to 21 U.S.C. § 360bbb-3 and 45 C.F.R. §§ 46.101, *et seq.* Furthermore, Plaintiffs expressly seek declaratory relief that federal law preempts Defendants’ policy at issue in this case.

⁸ See Ex. A, at ¶¶ 16-20.

⁹ Ex. A, at ¶¶ 21-25. Plaintiffs specifically allege Defendants, at a minimum, violated 21 U.S.C. 360bbb-3(e)(ii)-(iii). See Ex. A, at ¶ 22.

¹⁰ See Ex. A, at ¶¶ 16-26(b).

¹¹ See Ex. A, at at ¶ 25.

10. Removal of this case to the United States District Court for the Southern District of Texas, Houston Division is proper because such district and division embraces Montgomery County, Texas, where the state court action was filed.¹²

11. As required under 28 U.S.C. § 1446(d), after filing this notice, Defendants will promptly file a copy of this Notice of Removal with the clerk of the state court where this action is pending and provide written notice to all adverse parties.

12. Under Local Civil Rule 81,¹³ Defendants have attached Plaintiff's Original Petition,¹⁴ an index of all matters being filed,¹⁵ the docket sheet,¹⁶ and a list of all counsel of record, including addresses, telephone numbers, and parties represented.¹⁷

Respectfully submitted,

By: /s/ Daniel Patton

Daniel Patton

Federal Bar No. 26200

Texas Bar No. 24013302

dpatton@scottpattonlaw.com

ATTORNEY IN CHARGE FOR
DEFENDANTS

¹² See *id.*; 28 U.S.C. § 1441(a).

¹³ See S.D. TEX. L. CIV. R. 81.

¹⁴ See Ex. A.

¹⁵ See Index of All Matters Being Filed, attached as Exhibit "B."

¹⁶ See Docket Sheet, attached as Exhibit "C."

¹⁷ See List of All Counsel of Record, attached as Exhibit "D." Defendants do not believe there are any executed process or signed orders in the state court proceeding.

OF COUNSEL:

Michael Twomey
Federal Bar No. 608043
Texas Bar No. 24070776
mtwomey@scottpattonlaw.com

Drew Barber
Federal Bar No. 3089408
Texas Bar No. 24101483
dbarber@scottpattonlaw.com

SCOTT PATTON PC

5301 Katy Freeway, Suite 201
Houston, Texas 77007
Phone: (281) 377-3311
Fax: (281) 377-3267

CERTIFICATE OF SERVICE

I certify that on June 1, 2021, a true and correct copy of foregoing was served on all counsel of record by the Court's ECF filing system.

/s/ Daniel Patton

Daniel Patton